

2015 FEB -2 PM 3: 32

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

2015 02 0275

CLERK OF BUTLER COUNTY
COURTS

ELIZABETH BROOKBANK
4267 West Arbor Terrace
West Chester, Ohio 45069

CASE NO. _____

WENTZ LIBRARY
BUTLER COUNTY
CLERK OF COURTS

JUDGE:

Plaintiff

vs.

**COMPLAINT-BREACH OF
CONTRACT, BAD FAITH,
UNJUST ENRICHMENT AND
DECLARATORY JUDGMENT**

ANTHEM LIFE INSURANCE COMPANY:
P.O. Box 105426
Atlanta, GA 30348-5426

Defendant

Now comes Plaintiff, Elizabeth Brookbank, by and through undersigned counsel, and hereby state the following for her Complaint against Defendant:

JURISDICTION AND VENUE

- 1 Plaintiff, Elizabeth Brookbank, at all times relevant, resided at 4267 West Arbor Terrace West Chester, Ohio 45069.
- 2 Defendant, Anthem Life Insurance Company ("hereinafter referred to as "Anthem Life") is an Insurance company authorized to sell insurance products and conduct business in Butler County, Ohio.

GENERAL ALLEGATIONS APPLICABLE TO ALL CLAIMS

- 3 The Plaintiff, Elizabeth Brookbank, was at all times relevant an employee of Knovation Inc., as a sales representative.
- 4 Knovation Inc, contracted with Defendant Anthem Life to provide a Long Term Disability Plan for its employees.
- 5 Plaintiff, as an employee of Knovation Inc., was and is covered by the Defendant, Anthem Life Long Term Disability Plan, and is an insured under the terms of the Plan.

Exhibit
A

6. In early 2012, the Plaintiff was diagnosed with systemic lupus erythematosus and myalgia, which has caused and continues to cause severe disability. 2015 02 0275
7. Consistent with the terms of the Anthem Life policy, Plaintiff submitted to Anthem Life Insurance Company a timely notice of claim in July of 2012 and otherwise complied with all relevant and applicable terms and conditions of the policy for Long Term Disability.
8. Plaintiff submitted with her claim medical documentation clearly showing she was disabled and unable to work.
9. The Defendant, as permitted under the policy, had the Plaintiff's medical records reviewed and examined by Dr. Joel Kovarsky, a board certified internal medicine and rheumatologist physician.
10. Defendant's reviewing Doctor, Dr. Kovarsky, concluded that the Plaintiff was disabled, and was unable to perform her occupation and was entitled to Long Term Disability benefits.
11. The Defendant, unhappy with the opinion of its own reviewing Doctor, and in an effort to avoid payment under the policy, sought out another review, this time by a Dr. Dennis Payne who, contrary to Plaintiff's Doctor and Dr. Kovarsky, found that the Plaintiff was capable of working.
12. Defendant Anthem Life Insurance Company has refused to pay the loss in accordance with the policy despite full compliance by the Plaintiff under the policy.

FIRST CLAIM
(Breach of Contract)

3. Plaintiff incorporates by reference here each and every preceding paragraph as if fully rewritten herein.
4. Anthem Life Insurance Company has denied coverage for and/or refuses to fully satisfy its contractual obligations with respect to paying for the claim under the policy despite the medical evidence presented by its own reviewing Doctor (Dr. Kovarsky) and medical evidence presented by the Plaintiff.
5. Anthem Life Insurance Company's decision to refuse to fulfill its contractual obligations constitutes a breach of the insurance contract between it and its insured, Elizabeth Brookbank.
16. Anthem Life Insurance Company's breach of contract directly and proximately caused damages to its insured in an amount exceeding \$25,000.00.

WHEREFORE, Plaintiff, Elizabeth Brookbank, hereby demand judgment against Defendant Anthem Life Insurance Company in an amount exceeding \$25,000.00, including attorney's fees and costs incurred in this action.

2015-02-02
JAN L. SWAN
JUTTEN COUNTY
CLERK OF COURTS

SECOND CLAIM
(Bad Faith Anthem Life Insurance Company)

17. Plaintiff incorporates by reference here each and every preceding paragraph as if fully rewritten herein.
18. The relationship between Anthem Life Insurance Company and its insured, Elizabeth Brookbank, mandates that Anthem Life Insurance Company act in good faith with respect to the handling and payment of claims submitted by Plaintiff.
19. Anthem Life Insurance Company has refused to provide coverage and/or refuses to pay monies pursuant to its contractual obligation with respect to the claim submitted by Plaintiff, and supported by medical evidence, and supported by Defendant's own reviewing Doctor.
20. Anthem Life Insurance Company acted in bad faith by declining to provide coverage and/or refusing to pay pursuant to the Anthem Life Insurance Company policy at issue.
21. Anthem Life Insurance Company acted in bad faith by its actions of repeatedly having Plaintiff reviewed by Doctors until it found a Doctor who would find Plaintiff, Elizabeth Brookbank, capable of working.
22. Anthem Life Insurance Company had no lawful basis to fail to provide coverage and/or for refusing to pay for the Plaintiffs claim for Long Term Disability.
23. Anthem Life Insurance Company had no reasonable justification for its refusal to pay the coverage and/or for refusing to pay the damages sustained in the subject loss and had no reasonable justification for its failure to determine whether such refusal to pay had a lawful basis.
24. Anthem Life Insurance Company's bad faith with respect to the handling of payment of the claim submitted by Plaintiff, Elizabeth Brookbank, directly and proximately caused damages to Plaintiff in an amount exceeding \$25,000.00.
25. Anthem Life Insurance Company's bad faith entitles Plaintiff to recover punitive damages in an amount to be determined by the trier of fact.

WHEREFORE, Plaintiff, Elizabeth Brookbank, hereby demands judgment against Defendant, Anthem Life Insurance Company in an amount exceeding \$25,000.00, plus punitive damages, attorney's fees and costs incurred in this action.

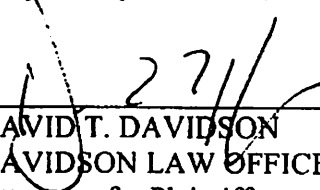
THIRD CLAIM
(Declaratory Judgment)

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26. Plaintiff incorporates by reference here each and every preceding paragraph as if fully rewritten herein.
27. Pursuant to Ohio Revised Code Section 2721.01 *et seq.* Plaintiff requests a Declaratory Judgment from this Court with regard to the rights and obligations as between Anthem Life Insurance Company and Plaintiff with respect to Anthem Life Insurance Company's policy as it pertains to coverage provided for the subject claim for Long Term Disability.
28. In particular, Plaintiff requests that this Court declare that the Anthem Life Insurance Company policy provides coverage to Elizabeth Brookbank with respect to her claim for Long Term Disability.
29. Plaintiff reserves the right to request further declarations of Anthem Life Insurance Company's rights and obligations as appropriate.
30. Further, Plaintiff request that this Court declare that Anthem Life Insurance Company is obligated to pay the Plaintiff in excess of \$25,000.00 plus attorney fees and costs incurred in this action.

WHEREFORE, Plaintiff, Elizabeth Brookbank, hereby demands judgment against Defendant, Anthem Life Insurance Company, in an amount exceeding \$25,000.00, including attorney's fees and costs incurred in this action.

Respectfully submitted,



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INSTRUCTION TO THE CLERK

Please serve the Defendant with a summons and a copy of the Complaint at the address specified in the caption of the Complaint by certified U.S. Mail, return receipt requested.

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MARK L. SMITH
CLERK OF COURTS

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David T. Davidson
Attorney at Law